

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

MV ETHAN ALLEN,
 LAKE GEORGE, NEW YORK,
 OCTOBER 2, 2005

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* Docket No.: DCA 06 MM 001

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Interview of: LAWRENCE JOSEPH MAHALAK

National Transportation Safety Board
 490 L'Enfant Plaza East, S.W.
 Washington, D.C. 20594

Tuesday,
 October 11, 2005

The above-captioned matter convened, pursuant to
 notice, via telephone.

BEFORE: MARIETTE BURER

APPEARANCES:

MARIETTE BURER

National Transportation Safety Board

MAJ. STEVE RIVENBURGH

New York State Park Police

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Lawrence Joseph Mahalak:	
By Ms. Burer	4
By Maj. Rivenburgh	18
By Ms. Burer	25
By Maj. Rivenburgh	26

P R O C E E D I N G S

MS. BURER: My name is Mariette Burer with the National Transportation Safety Board, and I have with me --

MAJ. RIVENBURGH: Steve Rivenburgh, New York State
Park Police.

MR. MAHALAK: Okay.

MS. BURER: Go ahead, sir.

MR. MAHALAK: My name is Lawrence Joseph Mahalak,
M-a-h-a-l-a-k, and I live in Howell, Michigan.

INTERVIEW OF LAWRENCE J. MAHALAK

BY MS. BURER:

Q. Could you tell me exactly your position on the vessel, the Ethan Allen, when you boarded, where your seat was?

A. My seat was mid-ship on the right side or the starboard side of the boat. I was sitting closest to the outside of the boat, the starboard, on a bench that held two people. That's not correct. I was on the inside of the bench for two people, and a guy by the name of Russell was on the outside.

Q. Okay. And that was mid-vessel?

A. Yes, there was -- there's a cleat in mid-ship of the boat and I was sitting close to that cleat.

Q. Okay. Do you remember who was sitting behind you?

A. I do not.

Q. Okay. Or in front of you?

1 A. My wife was in front of me, about 15 feet away.

2 Q. Okay. But directly in front of you, the seats, do
3 you remember who was sitting there?

4 A. No, I do not.

5 Q. Okay. Can you tell me if your first impressions when
6 you boarded the board?

7 A. The boat was clean and neat, there was nothing on it,
8 no ropes, no bumpers, no jackets visible, nothing, just
9 benches.

10 Q. Okay. Were you --

11 A. The ceiling of the boat had no life vests on it and
12 the windows were folded inward, hinged along the outside of the
13 boat and folded inward and attached to the ceiling. I could
14 not tell how they were attached, but they were clean,
15 indicating that they had been up and down or cleaned recently.

16 Q. Was that all the windows that you saw attached to the
17 ceiling?

18 A. No, there were three windows in the front that
19 appeared to be permanent, the one that was perpendicular to the
20 long axis of the boat, which is directly in front --

21 Q. Yes.

22 A. -- and one window on each side appeared to be
23 permanent. The rest of the windows were folded up.

24 Q. Okay. Were you one of the last to arrive?

25 A. My wife and I came on the boat very late in the

1 boarding sequence. There were two seats and we did not sit
2 together. She sat forward, I sat back a bit. And then I think
3 there was more seat available, but the two ladies who were with
4 us in line, elected not to go and they turned around and left.

5 Q. Okay. How was the captain when you first boarded
6 onto the vessel, his demeanor?

7 A. I don't know. I never spoke to him. I don't
8 remember seeing him.

9 Q. Do you remember anything at all about the captain
10 while -- during the trip? Did you look back at all?

11 A. Yes, he had a -- the boat was rather old and he had a
12 position in the starboard side of the boat in the rear, and it
13 seemed to be separate from the rest of us. The steering device
14 was a vertical shaft with a wheel on it.

15 Q. Did you see any actions that the captain performed?

16 A. No, I did not turn around and look backwards after
17 that point and I didn't see anything back there, nothing.

18 Q. So when did you actually notice the steering device?

19 A. When I got on the boat.

20 Q. Okay.

21 A. It was rather strange, because the instruments pod
22 that I looked at seemed to be about the same age as Model A.

23 Q. Okay.

24 A. About 1929, 1930.

25 Q. Okay.

1 A. And the -- I notices the steering wheel being
2 vertical and I said that's really an old one.

3 Q. Okay. What is your occupation?

4 A. I'm an engineer --

5 Q. Okay.

6 A. -- for automotive people, the Ford Motor Company.

7 Q. Okay.

8 A. And I'm currently retired.

9 Q. How long were you an engineer for?

10 A. Forty years.

11 Q. Okay. Can you give me an impression of how the boat
12 was sitting when you found your seat?

13 A. Yes, I can do a little better than that.

14 Q. Okay.

15 A. I was about a hundred yards away coming down the dock
16 and looking at the boat from the front, and I noticed the boat
17 tipped severely to the right 25 to 30 degrees. And then it
18 went back, not very quickly. It tipped, stayed there and then
19 it went back, and I wondered what the hell were those people
20 doing on that boat. Who would load a boat like that? And
21 subsequently, I seen a picture of the boat backing out from the
22 dock, so that might be filmed.

23 Q. Okay.

24 A. That was about 15 minutes before boarding. When I
25 got down near the boat, I remember remarking to my wife,

1 because it tipped that way, I said, I don't know if this piece
2 of junk boat is any good. And when we got down and looked at
3 the boat, it looked like it was nice and clean and well kept
4 up, and it seemed to be quite level at that point. As I
5 boarded, I noted that the seats were three on the left, or the
6 port side, and two on the starboard all the way down. And I
7 remember thinking, what kind of a guy would design a boat like
8 that, because it was inherently heavy on the left.

9 Q. When you actually -- go ahead.

10 A. It seemed to be pretty level, so I wasn't concerned.

11 Q. Okay. Did you still feel the same way when you took
12 off and started on your journey that it, you know --

13 A. Yeah, the boat --

14 Q. -- was pretty level?

15 A. The boat was heavy at the front when I boarded, it
16 looked heavy in front, it looked overloaded and heavy in front,
17 and there was a slight list to the left on the heavy side
18 because there was three people sitting on side and two on the
19 other. And as we backed out and left, I noticed that the front
20 of the boat never rose like it normally does. The front of the
21 boat stayed in the same position it was at the dock when it was
22 under power, which kind of surprised me.

23 Q. Did you hear any kind of strange noises during your
24 journey?

25 A. No, the captain had it in reverse for a short time,

1 and very gently we backed out of the dock. He shifted into
2 forward speed, kept at that one RPM until we were clear of a
3 bunch of little buoys that had some kind of marking on them for
4 speed, like three miles an hour, five miles an hour, or no wake
5 or something like that. It looked like the swimming buoys,
6 little vertical ones. There was about five in a row. And when
7 we were outside of that, he brought the RPM up to some point
8 and it remained there until the engine quit about five minutes
9 after it was upside down. That's not quite right. That engine
10 RPM stayed the same when it was upside down for approximately
11 three minutes, then the RPMs, because the engine was starving,
12 the RPM of the engine approximately tripled and the bearings,
13 because they were running dry, gave out a big puff of smoke,
14 and then the engine -- they seized up and the engine quit, or
15 the engine ran out of fuel and quit. But I was happy to see it
16 quit, because the prop was in the air thrashing around.

17 Q. Did you see any kind of discussions? Did you notice
18 the captain at all on the dock prior to you boarding, because
19 you had just mentioned something about that you saw that the
20 boat was heavy in the front, right, and that you could see that
21 approximately a hundred yards --

22 A. No --

23 Q. -- away?

24 A. -- that's not correct.

25 Q. Okay.

1 A. I noticed the boat was heavy in the front prior to
2 the time I got on when I was along side of the boat.

3 Q. Okay.

4 A. And I was looking at the boat and I noticed that
5 there was no waterline painted on it.

6 Q. Okay.

7 A. No bottom paint. Because, normally, if there's
8 bottom paint on it, you can see how heavily it's loaded, and I
9 noticed that the boat was loaded heavily in the front, but
10 there was no bottom paint on it so you couldn't tell.

11 Q. Okay.

12 A. You couldn't tell where the normal waterline was.
13 There was no stripe on the side of the boat, it was just white.

14 Q. Right. Now -- okay. Then, as far as the captain,
15 when was the first time that you actually noticed the captain?
16 Where was he located?

17 A. He was -- the first time I noticed, he was at his
18 station, and at one point I turned around and seen that he had
19 some kind of dark jacket on and that's all I can remember.

20 Q. Okay.

21 A. A ruddy-faced guy.

22 Q. Okay.

23 A. I couldn't guess his weight. I didn't see him
24 standing up.

25 Q. And did you turn around at all at any time during

1 your journey?

2 A. I did and when I did turn around, about the only -- I
3 turned around once to look back and I seen the captain in his
4 position. I seen no one else standing and I faced forward
5 after that.

6 Q. Okay. Did you notice anything as far as life
7 jackets?

8 A. I did not see a life jacket ever --

9 Q. Okay.

10 A. -- on that boat.

11 Q. And did the captain, did he perform any kind of
12 safety briefing?

13 A. None.

14 Q. Okay.

15 A. His first words, what a beautiful day, as he backed
16 out.

17 Q. Okay.

18 A. He gave no briefing on fire extinguishers or life
19 jackets or any other briefing of a safety nature.

20 Q. Right. Did he say, at any time at all, whether
21 people should move from left to right or right to left or, you
22 know, change seats or --

23 A. I heard none of that.

24 Q. Okay.

25 A. But I was concerned because the captain took off and

1 that boat was heavy on the left. Of course, there was no way
2 to make it heavy on the right because there was two seats on
3 the right and the three on the left.

4 Q. Right.

5 A. That was inherent in the boat design and I thought
6 that was a pretty lousy design.

7 Q. Now, when you came, when you came on board, were all
8 the seats -- the two-seaters, were they already filled up?

9 A. There was one seat empty on the right and I took that
10 seat mid-ship, and my wife went forward. There was one seat
11 empty there.

12 Q. Yeah.

13 A. And I believe there was seat empty in the -- across
14 from me and forward one row. I think there was two people in
15 that seat instead of three.

16 Q. Okay. Would that be the first bench or --

17 A. No. If you -- if you look at that boat, there's a
18 cleat on the side.

19 Q. Yeah.

20 A. And where the cleat is, I was sitting with the cleat
21 along side of me. There was one row forward on the port side.
22 There was two people in one of those seats that had three
23 people, or it was made for three people.

24 Q. Right. Okay.

25 A. And there was some discussion about those two girls

1 who left, saying, there's room for one more, and they couldn't
2 find seats for two more, so the two girls decided to leave.

3 Q. Okay. When the boat actually capsized, can you
4 describe that action a little bit, as far as what occurred with
5 you and --

6 A. Yes. As we traveled about, as I mentioned before,
7 the RPM did not change. The captain made no sharp corners.
8 Everything was smooth and very gentle. And at the time just
9 prior to us capsizing, there was a small boat that went by,
10 approximately 18-foot in length, about a hundred yards out.
11 And the captain turned to the right about 15 degrees to meet a
12 small wave that he set up, maybe, I don't know, eight to ten
13 inches high. And when he turned to the right, the boat tipped
14 to the left. It rotated -- it never stopped rotating to the
15 left along the long axis of the boat. And at about 15 to 20
16 degrees, I became aware of the fact that the rate was not
17 changing, and I said to the guy next to me, Russell, I said,
18 Russell, grab that stanchion. She's going over. And we both
19 grabbed that stanchion and of course, facing the stanchion, we
20 could see nothing then. When I said grab the stanchion, I seen
21 somebody slide off a seat. And when I seen somebody slide off
22 a seat, in my mind, the transfer of weight of one person
23 sliding off the seat was enough that she wasn't going to stop.
24 The roll rate continued.

25 My feet swung out into midair and I don't remember

1 what happened after that. I was in the water, just like that.
2 I do not remember anything other than my hanging onto the
3 stanchion and my feet rolling out, sliding out. The boat was
4 approximately a 90-degree roll to the left. And something
5 happened then that I don't understand, because when I came
6 up -- I didn't come up. When I -- I was in the water and I
7 couldn't remember what happened, and that concerned me and I
8 immediately tried to reorient myself. I'm a pilot and I dive
9 in the water and do other -- you know, waterskiing, whatever,
10 and I'm very concerned about where I am when I come out of some
11 kind of unusual attitude, probably from flying. And I
12 immediately did that because I'm uncomfortable unless I know
13 which way is up and which way is right and left. I oriented
14 myself to the point, and we were near a point and there was an
15 island. I oriented myself to that point and the island, and
16 immediately noticed that the boat -- the propeller was spinning
17 in front of me where the front of the boat was before. And I
18 thought, that's strange. How did the boat turn a hundred and
19 eighty degrees on its axis? I was concerned that perhaps I was
20 out for a few minutes. So I felt my head to see if I had any
21 bumps or blood, and my hair was dry and my glasses were dry.
22 That really got me confused. I wondered, if I haven't been
23 bumped, how did the boat turn around so fast and I didn't see
24 it?

25 And then there was people in the water and we

1 began -- my wife and I -- well, I was looking for my wife, and
2 she popped. And when she popped, I was greatly relieved.
3 Prior to that time, I was thinking of going under the boat to
4 look for her, but knowing how the boat was built, it was
5 floating upside down on the deck, because the deck's about, I
6 don't know, two, three inches underwater and there's no air
7 under that boat. There couldn't have been any air in there.
8 There's no way for air to remain there. So I considered that
9 there'd be fuel oil, because I could smell diesel fuel and I
10 considered that it would probably be heavy on the inside and
11 there'd be no air. That'd be a bad place to go. So I grabbed
12 that cleat. I was still along side the cleat. I grabbed that
13 cleat and ducked down with my feet and tried to find -- make a
14 sweep to see if there were any people inside. I could not find
15 any people inside.

16 So I popped back up and looked and I seen my wife pop
17 up, and I was greatly relieved. And we were in the water
18 trying to save people by pushing them closer to the boat. A
19 boat approached -- after about three to five minutes a boat
20 approached after the engine quit and just kind of stood there,
21 and we were screaming at them, throw us your life vests. There
22 wasn't anything on the water except shoes and clothing and few
23 people face down, but there was nothing on the water that you
24 could use for floatation. There was no bumpers, there was no
25 jackets, nothing. And we were screaming at the boats that

1 approached us, throw us your jackets, because there were people
2 drowning right around us.

3 So eventually, those people -- I think they were in
4 total shock for a while. After being hollered at for, I don't
5 know, four or five times and everybody was screaming, throw us
6 your jackets, then they started throwing jackets, but they
7 threw them real close to their boat and they were like 10, 12
8 feet away, maybe more, 15 feet away. And I swam out to get the
9 jackets, and I began throwing the jackets to my wife and she
10 began distributing them. And you know, we continued that
11 procedure for a long time, until everybody had jackets or until
12 everybody we could see had jackets; at which time there was a
13 boat behind me and I boarded that boat and began helping -- I
14 climbed up the ladder and sat on the transom and began pulling
15 people out of the water as they approached the boat.

16 When my wife came to the boat, she couldn't get in
17 and I told her there was a ladder there. She got a foot on the
18 ladder and she came into the boat. And shortly after that,
19 I -- like three or four seconds, I never looked back at her,
20 but I had a camera on my neck and I took that camera off
21 because it was banging me when I was reaching down to pull
22 people up. I took the camera off and threw it behind me and
23 there was a guy drowning just off the transom. I jumped back
24 in to get him and after, after I got him, I swam -- with all my
25 clothes and with his clothes it was kind of tough. I did take

1 a jacket with me when I jumped back in and I slapped this
2 jacket on the guy that was flaying in the water. I approached
3 him from behind and he was trashing around, and I threw the
4 jacket on him and he grabbed the jacket. I told him to be
5 quiet and not fight me and I'd swim back. I did that.

6 But when I got back, it wasn't the same boat. It was
7 a guy by the name of Raul, who had a boat hook and he stuck the
8 boat hook out, and I grabbed the boat hook and got the guy that
9 I was dragging behind and turned around and Raul pulled him up
10 in his boat, but he couldn't pull him up. So I pushed from the
11 water, which sent me down into the water. I pushed him to push
12 him up into the boat, but I was propelled down into the water.
13 I heard a motor running near me, a propeller. I could hear
14 that high-pitched whine, and turned around to see the prop
15 spinning not too far from me. So I was afraid of the prop,
16 came up facing the prop, not the boat that I -- not Raul's
17 boat, it was a small boat, and that boat had a small, a small
18 boarding ladder, very small. I got my knees on that ladder and
19 pulled myself up to try to get away from the prop.

20 And when I did that, I looked in the boat and
21 everybody in the boat was well forward, like there was one,
22 two -- there was one guy on the bow, a person who had drowned
23 and they were trying to resuscitate him, and there was three
24 people forward. While boarded the boat and when I was in the
25 boat, Raul's daughter jumped on the boat from behind, because

1 the boat was in very close to Raul's boat at that point, and I
2 don't know how he got closer, but she jumped from her boat onto
3 that one and went forward to try to resuscitate this person.
4 And there was a sheriff's boat close by. I screamed to him and
5 asked for a defibrillator and he pointed to the shore where I
6 seen an ambulance, one flasher from an ambulance. I jumped on
7 the controls and drove the boat to shore with Raul's daughter,
8 the boat owner, somebody else, and the person who had
9 apparently drowned. When we got to shore, we unloaded him and
10 I stayed ashore after that.

11 Q. Okay. The camera that you had, did you ever take any
12 pictures of it and --

13 A. That camera was -- it's destroyed. I had two
14 pictures on it and those two pictures were of the dock area,
15 and have since thrown the film away.

16 Q. Okay. And did you sustain any injuries?

17 A. No.

18 Q. Okay.

19 A. None.

20 MS. BURER: I'm going to go ahead and turn it over to
21 Steve now.

22 MR. MAHALAK: Okay.

23 BY MAJ. RIVENBURGH:

24 Q. Okay, Mr. Mahalak, you've said a couple times that
25 the boat was heavy in the bow, both when you approached it and

1 when you got on the water, is that correct?

2 A. It was heavy on the bow. As I approached the boat, I
3 looked at it with some concern before I got on, because there
4 were a lot of heavy people on it. I was -- I considered and I
5 voiced it to my wife and to the two people that were there, I
6 said, let's wait for the next boat. That one's too heavy. And
7 I was informed by someone on the dock, and I don't know who,
8 that the next boat was for the next bus and the bus was full,
9 so there would be no room on the next boat.

10 Q. Okay.

11 A. So at that point they said, oh come on, there's
12 several seats, and the boat looked pretty level and it looked
13 pretty clean, it looked well kept up so I thought, well, all
14 right, so we got on.

15 Q. Okay. Now, you said also that the captain made no
16 sharp turns and maintained a steady engine speed, steady RPMs.

17 A. The RPMs never changed after he brought it up
18 slightly when we got outside of the dock area where there
19 were -- there was some kind of slow no wake area there.

20 Q. Yeah.

21 A. Do you confirm that? Was there some kind of a no --
22 I don't know what it said on those little -- there were little
23 vertical pylons in the water with a red mark on them.

24 Q. Yes, there is a --

25 A. And I don't know if it said five mile an hour max or

1 no wake or something like that.

2 Q. There is a five mile per hour zone in that portion of
3 the lake.

4 A. Is that what it said, five?

5 Q. Yeah, I believe so.

6 A. I seen one of those and I said, why is he going so
7 slow, and somebody said there's a no wake area here, or there's
8 a slow zone. And I looked and I seen one of those little piers
9 with something red on it and I think it said five, but I don't
10 know.

11 Q. Yes, sir. Now, you said that you saw a small speed
12 boat, about an 18-footer?

13 A. That's correct.

14 Q. Which direction -- was that headed --

15 A. It was headed back towards the dock where we came
16 from, and we were going still away from the dock, but
17 turning -- we were quite a bit turned to the right and I would
18 say we were close to the shore near the Singer residence. And
19 shortly after that, we turned to the right a little bit to get
20 out around a point, and when were in that position, that's
21 where we tipped over, not far from the Singer residence.

22 Q. Okay.

23 A. Do you know what I'm talking about when I Singer?

24 Q. Yeah.

25 MS. BURER: Yes.

1 MR. MAHALAK: Okay.

2 MAJ. RIVENBURGH: Yeah, we --

3 MR. MAHALAK: Some gray buildings or a group of
4 buildings owned by the Singer sewing machine people.

5 MAJ. RIVENBURGH: Yes, sir, we're familiar with that
6 area.

7 MR. MAHALAK: Do you confirm that that's where the
8 boat was, that's where the accident occurred?

9 MAJ. RIVENBURGH: We pretty much know where the boat,
10 where it went down. It's probably a little bit from that
11 location, but it's in that general vicinity.

12 MR. MAHALAK: Yeah, not very far from that, because
13 he was talking about the Singer thing, and then we continued
14 for a ways, and then there was a small wake and the captain
15 turned 15 degrees to the right to meet the wave and the boat
16 lifted to the left, started to list to the left, continued to
17 roll and the roll rate never changed until it was it vertical.
18 Until it was 90 degrees in the water.

19 MAJ. RIVENBURGH: Okay.

20 MR. MAHALAK: At which time I lost orientation.

21 BY MAJ. RIVENBURGH:

22 Q. Do you recall the coloring on the small boat, the
23 18-footer?

24 A. I do not.

25 Q. Okay.

1 A. I was pretty much looking into the sun at that point.
2 We were looking back towards the dock, which was in a southerly
3 direction and it was pretty much -- and the sun was shining off
4 the water. It was not easy to see the coloration, but it was a
5 small boat, two people in it.

6 Q. Okay. Two people in it, right?

7 A. Right.

8 Q. Okay.

9 A. And going south.

10 Q. Okay.

11 A. And when the accident occurred, he was probably near
12 that little island that's got the little harbor on the, on the
13 east side.

14 Q. Okay.

15 A. Do you know -- do you recognize what island I'm
16 talking about?

17 Q. I'm looking at --

18 A. It's an island with a building on it and a little
19 harbor on the east side of the island.

20 Q. Yeah.

21 A. Okay.

22 Q. I'm looking at --

23 A. You probably (indiscernible) that.

24 Q. I'm looking at an aerial photo of it now.

25 A. Okay. We went and looked at that island and turned,

1 made a very gentle turn to the left at that point and came
2 around and then went back along that point, and we were going
3 almost east when the accident occurred.

4 Q. Okay. And you did see the small wave from the -- or
5 the wake from the small boat, correct?

6 A. Yeah, and it was, it was as big as a pop bottle.

7 Q. What, six inches, eight inches --

8 A. Oh, nine --

9 Q. -- a foot?

10 A. Nine to ten inches. Not more than 10.

11 Q. Okay.

12 A. The chop on the water was, like, two inches.

13 Q. Okay. You state that you're a swimmer and a diver
14 and a pilot?

15 A. That's correct.

16 Q. What -- what's your pilot's license for?

17 A. I fly glider only and I fly quite a bit of aerobatic.

18 Q. Okay. How long have you had your diver's
19 certificate?

20 A. I had -- I started when I was in college and I never
21 got a certificate, because I quit before the certificates
22 became mandatory.

23 Q. Okay.

24 A. After that I did snorkeling only, because I got
25 married and my wife didn't have one, so we did snorkeling only

1 after that.

2 Q. Okay. Do you recall, after you boarded, any --
3 anything on the dock, any confrontation or any actions on the
4 dock between crew people?

5 A. There were some words, but I don't know what they
6 were, and they had to do with -- they had to do with untying
7 the boat.

8 Q. Okay.

9 A. And I was on the far side from it.

10 Q. Okay.

11 A. I'm sitting, you know -- there were three people --
12 there was a row of three people between me and that area, so I
13 really didn't hear or I didn't understand what was going on.
14 And I really didn't care. It just had to do with untying the
15 boat.

16 Q. Okay. Do you know if your bus driver was going to go
17 on the tour with you or not?

18 A. He was not.

19 MAJ. RIVENBURGH: Okay. I have no further questions
20 at this time, sir. Thank you.

21 MR. MAHALAK: I have some questions for you, sir.

22 MAJ. RIVENBURGH: I'll see if I can answer them.

23 MR. MAHALAK: When I became aware of my position in
24 the water, I was facing northeast, and the rear of the boat was
25 facing northeast. Prior to that, the boat was facing -- the

1 front of the boat was facing northeast. Are there any pictures
2 or is there any description of how that boat got turned around,
3 how fast that happened? Because in my recollection, it was
4 only a couple of seconds from the time I was hanging on the
5 stanchion until I was in the water and that boat was already
6 turned around. That just amazed me.

7 MAJ. RIVENBURGH: Mr. Mahalak, we're going to stop
8 the recording at this point.

9 MR. MAHALAK: Okay.

10 MAJ. RIVENBURGH: I just wanted to make you aware you
11 of that.

12 MS. BURER: Thank you. I'm going to go ahead and
13 turn it off right now, okay.

14 MR. MAHALAK: All right.

15 MS. BURER: Okay, hold on.

16 (Off the record.)

17 (On the record at 11:15 a.m.)

18 MS. BURER: Okay, we're recording again with
19 Mr. Mahalak, and it is 11:15 on the 11th of October.

20 BY MS. BURER:

21 Q. Go ahead, sir, and repeat what you just told us.

22 A. I said that I have a 16-foot boat now. I've had a
23 23-foot sailboat and I have a canoe, and I'm also a wind
24 sailor, so I'm familiar with strange attitudes of boats. And I
25 have -- and I had my at the dock a couple of years ago, where

1 it would fill up with rain, and my procedure for dumping it was
2 to get in the boat gently, get the motor started, pull the
3 drain plug out and drive it until the water all drained out.
4 When you get on a boat that's half full of water, it acts very
5 sluggish and unstable about the roll axis. The boat that we
6 were on, the Ethan Allen, acted to me like it had a lot of
7 water in the bilge.

8 BY MAJ. RIVENBURGH:

9 Q. Did you see any, any come up through any of the
10 hatchways or anything, sir?

11 A. No, I seen no indication of bilge water being pumped,
12 but I have since learned that -- and nor did I hear a bilge
13 pump running nor did I hear it capitate when it went dry. I
14 have since learned that it was a manual bilge pump. Is that
15 correct?

16 Q. I can confirm that, yes.

17 A. Okay. So that's the reason I didn't hear any bilge
18 water being pumped. But I think the boat had, just from the
19 actions of it, the nose low and -- the nose of the boat was low
20 and it never came up when it was underway. It would indicate
21 to me that there was bilge water in the nose. It also was --
22 the boat was overloaded, in my opinion. Too many people on
23 board. But none of the people stood up, which -- prior to the
24 accident and during our voyage, I never seen a person stand up.
25 And I've talked to people who were in the rear of the boat, one

1 lady and one man. The man's name is Bob something or other.
2 And both of those people confirmed that nobody ever stood up
3 during our voyage. Everyone remained seated.

4 Q. Okay. Gees. Do you -- this small boat that went by
5 you and this nine to ten inch wave, do you think that was the
6 initiating factor for the roll?

7 A. No, I think he -- I think the captain turned to the
8 right and that initiated the roll, and the roll never stopped.
9 And when people started sliding off their seats, I said, wow,
10 it's going over. And at that point, I hollered to Russell, who
11 was sitting next to me, grab that stanchion. She's going over.
12 So if you'll look at the -- if you'll look at the boat, there
13 was a stanchion to our right and there was a cleat to our right
14 so you know you know exactly where I was seated.

15 MAJ. RIVENBURGH: Okay. Now, I thank you for your
16 time. I don't have anything further at this point. And we
17 have your phone number. If we have some more questions, do you
18 mind if we call you back?

19 MR. MAHALAK: I do not. I would like to mention,
20 also, that I was so concerned about water in the bilge that I
21 wrote a note to the guy who -- at the first meeting. His name
22 was Finnerty (ph.) and he was from the Transportation Safety
23 Board.

24 MS. BURER: Yes, I have the notes.

25 MR. MAHALAK: Okay.

1 MS. BURER: Okay.

2 MR. MAHALAK: I was so concerned that I wrote that
3 note, and I believe that note -- and I don't have a copy of it.
4 I believe that note says that there was water in the bilge.

5 MS. BURER: Okay.

6 MR. MAHALAK: Or something to that nature. Is that
7 correct?

8 MS. BURER: I'm going to have to go ahead and read it
9 again.

10 MR. MAHALAK: Okay. I also -- I also attended
11 another meeting at noon prior to the time of our bus departing
12 at about 2:30, and at that meeting, I told the head honcho of
13 the Safety Board that that boat had water in the bilge, and I
14 was concerned that they'd never find out because it had sunk.
15 He told me that they had ways of finding out whether or not
16 there was water in the bilge.

17 MS. BURER: Yes, I have your notes and I'm reading it
18 right now and you do mention it in there.

19 MR. MAHALAK: Okay.

20 MS. BURER: Okay? So --

21 MR. MAHALAK: And I did mention it to the head
22 honcho --

23 MS. BURER: Right.

24 MR. MAHALAK: -- of the Safety Board. So I believe
25 I've done what I can to let you and the other authorities know

1 that I believe there was water in the bilge.

2 MS. BURER: Okay.

3 MR. MAHALAK: And I think it was a lot of water in
4 the bilge and I think that can be proven, if you simply get the
5 film of the boat at the dock and measure the time that it took
6 list and how fast it came back.

7 MS. BURER: Okay. Okay, sir. I have all the
8 information and I really, truly appreciate it. I do have
9 everything recorded and I do have your notes that mention it,
10 and we are definitely looking into it. But I would like to
11 thank you very much for your participation in this interview.

12 MR. MAHALAK: Okay. If I can help more, I'll be glad
13 to.

14 MS. BURER: Okay.

15 MR. MAHALAK: Thank you.

16 MS. BURER: Thank you.

17 MAJ. RIVENBURGH: Thank you, sir.

18 (Whereupon, the interview in the above-entitled
19 matter was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Investigation of MV Ethan Allen
 Lake George, New York
 October 2, 2005
 Interview of Lawrence J. Mahalak

DOCKET NUMBER: DCA 06 MM 001

PLACE: Washington, D.C.

DATE: October 11, 2005

was held according to the record, and that this is the
original, complete, true and accurate transcript which has been
compared to the recording accomplished at the hearing.

David Martini
Transcriber